

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION

Marcus Antonio Frierson, #247864,)	
)	C/A No. 4:09-1314-DCN-TER
Plaintiff,)	
)	
vs.)	
)	
Dr. E. Stahl; LPN, M. Brady;)	ORDER and OPINION
LPN, C. Dixon)	
)	
Defendants.)	
_____)	

This matter is before the court on the magistrate judge's report and recommendation (R&R) that this court deny plaintiff's and defendants' cross-motions for summary judgment, along with defendants' motion to reconsider the magistrate judge's R&R pursuant to Federal Rules of Civil Procedure 59 and 60. For the reasons set forth below, the court adopts the magistrate judge's R&R and denies the parties' cross-motions for summary judgment. In addition, the court denies defendants' motion for reconsideration.

I. CROSS-MOTIONS FOR SUMMARY JUDGMENT

The court agrees with the magistrate judge's determination that genuine issues of material fact exist regarding whether defendants acted with deliberate indifference to the alleged serious medical needs of plaintiff. Neither plaintiff nor defendants are entitled to judgment as a matter of law.

II. DEFENDANTS' MOTION FOR RECONSIDERATION

Defendants filed a motion for reconsideration of the magistrate judge's R&R pursuant to Rules 59 and 60, based on affidavits purporting to show that the medical records relied on by plaintiff in his summary judgment motion were forged. Plaintiff filed a response to defendants' motion, claiming that the medical records were not forged.

This court construes defendants' motion as an objection to the R&R, and despite defendants' allegations of fraud, this court is not in a position to determine whether the medical records at issue are legitimate. Defendants' motion raises yet another genuine issue of material fact, and accordingly, the motion must be denied.

III. CONCLUSION

For the foregoing reasons, the court **ADOPTS** the magistrate judge's R&R and **DENIES** the plaintiff's and defendants' cross-motions for summary judgment. The court also **DENIES** defendants' motion for reconsideration.

AND IT IS SO ORDERED.



DAVID C. NORTON
CHIEF UNITED STATES DISTRICT JUDGE

September 17, 2010
Charleston, South Carolina